

Report on the

BOARD OF LICENSURE FOR PROFESSIONAL GEOLOGISTS

Montgomery, Alabama



**Department of
Examiners of Public Accounts**

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September 9, 2004

Representative Howard Sanderford
Chairman, Sunset Committee
Alabama State House
Montgomery, AL 36130

Dear Representative Sanderford:

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the **Board of Licensure for Professional Geologists** in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the **Board of Licensure for Professional Geologists** in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,

Ronald L. Jones
Chief Examiner

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PROFILE

Purpose/Authority:

The Board of Licensure for Professional Geologists was created to regulate the practice of geology; to define the practice of geology as a profession, to establish minimum professional standards for ethical conduct, professional responsibility, education, and experience, and to prevent abuses of the practice of geology by untrained or unprincipled persons in Alabama. The board was created by Act 95-399, effective July 25, 1995, codified at the *Code of Alabama 1975*, Sections 34-41-1 through 34-41-24.

Board Characteristics:

Members	7
Term	3 years staggered. No member may serve more than two consecutive three-year terms, without interruption in service of at least three years.
Selection	<p>Appointed by the governor from a list of nominees submitted by the board or any entity designated by the board.</p> <p>Membership of the board must include at least one representative member from each of the following professional subgroups of geologists:</p> <ul style="list-style-type: none">• Faculty of the departments of geology at Alabama colleges and universities that grant degrees in the geological sciences.• Governmental agencies employing geologists.• Businesses, exclusive of those exempted.• Mining industry.• Petroleum industry.• Geotechnical and/or environmental engineering firms.• Independent geological consultants.
Qualifications	Each member of the board must be a licensed geologist, a citizen of the United States, a resident of Alabama at least 5 years immediately preceding appointment, reside in Alabama during term of office, and at least 25 years of age.
Racial Representation	No statutory requirement. No current minority race representation.

Geographical Representation	No statutory requirement.
Consumer Representation	No statutory requirement.
Other Representation	Whenever possible the membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.
Compensation	\$100 per day for expenses incurred in the performance of duties Mileage payable at the same rate as paid for state officers and employees for each day of actual attendance at a regular or special meeting of the board. <i>Code of Alabama 1975</i> , Section 34-41-4(h).

Operations:

Administrator Keith Warren, Executive Director
Contracted by the board.

Location 610 South McDonough St.
Montgomery, AL 36104

Type of License or Permit Issued	<u>As of July 30, 2004</u>	
	Professional Geologists (Active)	723
	Professional Geologists (Inactive)	410
	Geologists-In-Training (Active)	16
	Total Licensees	1,149

Renewal Licenses expire biennially. The right to renew without penalty expires on the biennial anniversary of the license date. The right to practice expires 90 days after the expiration date of the current license. "A license which has expired for failure to renew may be restored only after application and payment of the prescribed restoration fee, provided the renewal applicant meets all other provisions established by the board". *Code of Alabama 1975*, Section 34-41-12(b)

Examinations Examinations are offered in March and October of each year. Testing is provided by the Association of State Boards of Geologists (ASBOG).

Continuing Education	A licensed professional geologist must earn a minimum of thirty (30) PDH per biennial period, except for the carryover permitted. The number of professional development hours which may be carried forward into the next biennial period cannot exceed fifteen (15). Administrative Rule 330-X-13-.02(4)(a). A Professional Development Hour (PDH) is a contact (clock) hour consisting of not less than fifty (50) minutes of instruction or presentation.
Reciprocity	Yes, the board must approve licensing through comity for any individual already licensed as a professional geologist or the equivalent in any other state, territory, or possession of the United States, or the District of Columbia, if the license is current and, in the opinion of the board, the license was issued in compliance with licensing requirements that are substantially the same as, or more stringent than, those established pursuant to this chapter. <i>Code of Alabama 1975</i> , Section 34-41-5(h).
Employees	There are no direct employees. The board contracts with the private management firm of Warren & Company to administer the board's business on a day to day basis. Warren & Company provides the board with one full time staff member and other clerical assistance as needed.
Legal Counsel	Attorney General's Office - Bill Little
Subpoena Power	Yes, persons and records.
Internet Presence	<p><u>ALGEOBD@aol.com</u> - contains:</p> <ul style="list-style-type: none"> • Contact information • Licensing Act • Rules and regulations • Downloadable application forms • Fee Listing • Continuing Education Guidelines • Task Force Resolution • Alabama Geologist Newsletter • Approved Courses • Consumer Complaint Form • Roster of Licensees • Continuing Education Opportunities and Information • CEU Sources
Attended Board Member Training	Keith Warren, Executive Director Hope Paulene, Administrative Assistant Dorothy Malaier, Board Member

Financial Information:

Source of Funds Licensing fees

State Treasury Yes

Unused Funds Retained by the board.

SIGNIFICANT ITEMS

1. The board did not properly complete administrative rule changes, thereby rendering the rule changes invalid. Two rule changes approved by the board in July 1998 [364-X-13-.03 (Expirations)] and [364-X-13-.01 (Renewals)] were implemented by the board without completing the process required under Alabama's Administrative Procedure Act. Although the board advertised in the Administrative Monthly, as required and approved the changes, a certification of final adoption was never submitted to the Legislative Reference Service, thus rendering the rule changes void. Noncompliance with the Administrative Procedure Act procedures required for rule changes was a significant item in the last sunset report.

The *Code of Alabama 1975*, Section 41-22-6(b) requires that, "The secretary of each agency shall file in the office of the Legislative Reference Service, no later than 15 days after the filing with the secretary of the agency and within 90 days after completion of the notice, in a form and manner prescribed by the Legislative Reference Service, a certified copy of each rule adopted by it. As used in this section, "completion of notice" means the end of the notice period specified pursuant to subdivision (1) of subsection (a) of Section 41-22-5. **A rule that is not filed with the Legislative Reference Service within the time limits prescribed in this subdivision is invalid.**"

2. **Weaknesses exist in the board's collection and deposit of fees.** These weaknesses were manifested as follows:

In a sample of 17 licensee files, we found the following discrepancies:

- A board member was not assessed a late fee, although he was five months late in renewing his license. He had written a critical letter to the board stating that he had not received a renewal notice.
- Collection of incorrect amounts for fees - One licensee paid ½ of his renewal fee, and board records do not indicate payment of the remaining balance. Another licensee paid \$25 and was issued a temporary license when the correct fee amount is \$200.

Untimely deposits – Many checks were deposited more than a month after receipt. Some checks were recorded as received more than two months before deposit. Prompt deposit of amounts received is necessary to reduce the risk of loss or misuse of funds.

3. **The board's licensee database and licensee files contained incomplete and non-current information.** A comparison of licensee files with the board's database revealed that the

database was missing information. Staff stated that the Microsoft Excel spreadsheet currently in use as the board's database was missing some data due to an error that occurred during a transition from an Excel spreadsheet to a Microsoft Access database in May of 2003. According to the executive director, the board previously used an Excel spreadsheet. As a replacement, the Department of Finance, Information Services Division wrote an Access database program but it would not perform correctly. He stated that the Access database was scrapped, and the board returned to the Excel spreadsheet, which has not been updated with the missing data.

In a sample of licensee files, we discovered that renewal forms for three board members were missing. The executive director found them in a stack of 60 unfilled renewal forms, some dating back to 2002.

4. **Complainants are not notified by the board of the resolution of a complaint if a private reprimand is issued to the offender.** The only complaint on record during the last four years was a complaint that was resolved with a private reprimand. No letter of resolution was sent to the complainant. The complainant also stated in his response to a questionnaire that he was not satisfied with his dealings with the board. According to the board's Administrative Rule 364-X-16-.02, "A record of any private reprimand issued by the board under this rule shall be maintained in the board's office but shall not be made public."
5. **Thirty-one percent of the responses to questionnaires received from licensees state that continuing education is not necessary for competent practice.** One comment states, "Mandatory continuing education is a good check but not really necessary for those very active in their work. I think explanations of current project work should serve as an option, i.e., if you don't keep up, you can't do it." Other comments received indicate that a number of geologists seem to be concerned with the costs of continuing education and time associated with it.

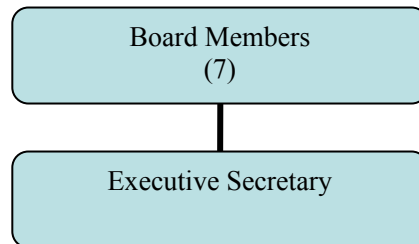
STATUS OF PRIOR FINDINGS

Previous Sunset Report dated August 15, 2000

Significant Item: According to responses received from the members of the Board of Licensure for Professional Geologists and a significant number of the licensed geologists, there remains a controversy between professional geologists and professional engineers concerning which profession has the statutory authority to accomplish and monitor certain areas of work to be performed. The *Code of Alabama 1975*, Section 34-41-5(m) states, "The board shall, within one year of its appointment, establish between it and the Alabama State Board of Professional Engineers and Land Surveyors, a memorandum of understanding, containing guidelines for resolving jurisdictional concerns that may arise between registered engineers and registered geologists." The Board of Licensure for Professional Geologists has established a memorandum of understanding between them but has failed to solve their jurisdictional differences.

Current Status: This condition remains.

ORGANIZATION



PERSONNEL

There are no direct employees. The Board of Licensure for Professional Geologists contracts with the private management firm of Warren & Company to administer the board's business on a day to day basis. Warren & Company provides the board with one full time staff member (Keith Warren, Executive Secretary) and other clerical assistance as needed.

PERFORMANCE CHARACTERISTICS

Number of Licensees per Employee – N/A No direct employees – administrative duties performed by Warren and Company.

Total Expenditure per Active Licensee (2002-2003 Fiscal Year) - \$73.94

Number of Persons per Licensee in Alabama and Surrounding States

	Population (Estimate)*	Active Geologists	Persons Per Geologist	Active Geologists-In-Training	Persons Per Geologist-In-Training
Alabama	4,500,702	723	6,225	16	281,294
Florida	17,019,068	1,771	9,610	(a)	-
Georgia	8,684,715	(b)	-	(b)	-
Mississippi	2,881,281	600	4,802	20	144,064
Tennessee	5,841,748	2,288	2,553	(c)	-

*July 1, 2003 Census Bureau Population Estimates Report

(a) Florida does not have this category of licensee.

- (b) No information was provided.
- (c) The number of Geologists-In-Training is not recorded separately and is included in the amount presented for Active Geologists.

Notification to Licensees of Board Decisions to Amend Administrative Rules -

The board advertises proposed rules in the Administrative Monthly, as required by the Administrative Procedure Act.

Complaint Resolution

Any person, business, or other entity, including a member of the board, may file with the Secretary of the board a complaint or charge of any misconduct or other circumstance listed under Section 34-41-19, Code of Ala. 1975. Such a complaint or charge must be in writing and sworn to.

Complaints must be referred to a standing investigative committee of the board consisting of a board member, the board's investigator, the executive secretary, and the board's attorney. The investigative committee must submit a report to the board as to the validity or merit of the complaint or charge.

After consideration of any complaint or charge by the investigative committee, the board may give notice of an administrative hearing under the Alabama Administrative Procedure Act, or may take other action as provided by regulation or statute. All complaints or charges received by the board are to be held in confidential status until the investigative committee reviews the allegations and recommends further action.

The board maintains a spreadsheet to aid in collecting information pertinent during a complaint. Data collected includes:

- The complaint case number assigned,
- Date the complaint was received,
- Name of the respondent,
- Date mailed to board investigator and
- Results.

There is no place on the spreadsheet designated to collect the name and address of the complainant, the address of the respondent, the license number of the respondent, a description of the type of complaint, status of complaint, or the date resolved. The lack of these fields increases the likelihood that notification of resolution to the complainant and respondent will not be accomplished and proper monitoring of a complaint will not be performed.

The only complaint received by the board during the last four years was a complaint that was resolved with a private reprimand. Upon review of the complaint and information provided by a questionnaire returned by the complainant it was discovered that no letter of resolution was sent to the complainant. The complainant also stated that he was not satisfied with his dealings with the board. According to Administrative Rule 364-X-16-.02, "A record of any private reprimand issued by the board under this rule shall be maintained in the Board's office but shall not be made public".

Initial Documentation	<p>Charges or allegations shall be in writing and shall be sworn to by the person or persons making them and shall be filed with the secretary-treasurer of the board.</p> <p><i>Code of Alabama 1975</i>, Section 34-41-17</p>
Informal Disciplinary Procedure	<p>If probable cause for the complaint or charge is found, but it is determined that license revocation or suspension would not be warranted even if the complaint or charge was proven, the accused party shall be informed of the nature of the complaint or charge, and that the complaint or charge, if admitted, may result in a private reprimand, and will be asked to respond to the complaint or charge. If the accused party admits to the complaint or charge, then a private reprimand will be issued if appropriate. If the accused party denies the complaint or charge, then the accused party will be given an opportunity to appear before the board for an informal hearing at which the evidence supporting the complaint or charge will be considered. If after the informal hearing the board finds that the complaint or charge is established, the board may issue a private reprimand. A record of any private reprimand issued by the board under this rule shall be maintained in the board's office but shall not be made public.</p> <p>If no probable cause is found, the board shall dismiss the charges as unfounded or trivial and prepare a statement, in writing, of the reasons for the decision. The statement shall be mailed to the accused party and the complaining party by registered or certified mail.</p> <p>If no probable cause is found, but it is determined by the board that the conduct of the accused party is not in accord with accepted professional practice or may be subject to disciplinary action if continued or repeated, the board may issue a Letter of Caution to the accused party stating that the conduct, while not the basis for a disciplinary hearing, is not professionally acceptable or may if repeated be the basis for a letter of reprimand or a disciplinary hearing from which suspension or revocation of license could result. A record of such Letter of Caution shall be maintained in the office of the board but shall not be made public.</p>

Formal Hearings	If the board finds probable cause exists and that the nature of the alleged violation could result in license suspension or revocation, the accused party shall be notified of the right to a hearing before any disciplinary action is taken. The accused party may assert his/her right to a hearing by mailing a request for a hearing to the board by certified mail within 30 days of receipt of the notice, and the notification shall inform him or her of the timeframe and method for making this request.
Resolution/Disposition	<p>Upon a finding, either after a hearing or, if a hearing is not requested, after informal consideration, that a licensee has committed any of the acts or omissions, or is subject to any of the circumstances set out in <u>Code of Ala. 1975</u>, Section 34-41-19, the board may impose any of the disciplinary penalties provided under that subsection.</p> <p>Within thirty (30) days of the date of the final hearing, the board will issue the final, written decision in all contested cases. This decision will include findings of fact, official notice taken, and conclusions of law. Any underlying facts of record in support of the findings will be disclosed.</p>
Anonymous Complaints	Anonymous complaints are not accepted.

FINANCIAL INFORMATION

Schedule of Fees

<i>Fee</i>	<i>Statutory Authority</i>	<i>Amount</i>
Application Request Fee	S 34-41-5(g)	\$25.00
Application Fee	S 34-41-9	\$150.00
License Fee	S 34-41-12(a)	\$150.00
Geologist In Training ⁽¹⁾	S 34-41-5(g)	\$75.00
Stamps, Seals, Certificates ⁽²⁾	S 34-41-14	\$50.00
Renewals ⁽³⁾	S 34-41-12(b)	\$150.00
Late Fee	S 34-41-5(g)	\$100.00
Examination Fee (Each Part) ⁽⁴⁾	S 34-41-11	\$150.00
Temporary License (maximum 90 days per year)	S 34-41-5(g)	\$200.00
Comity Fee	S 34-41-5(g)(h)	\$150.00

Roster of Licensed Geologists ⁽⁵⁾	S 34-41-16	Cost of Reproduction
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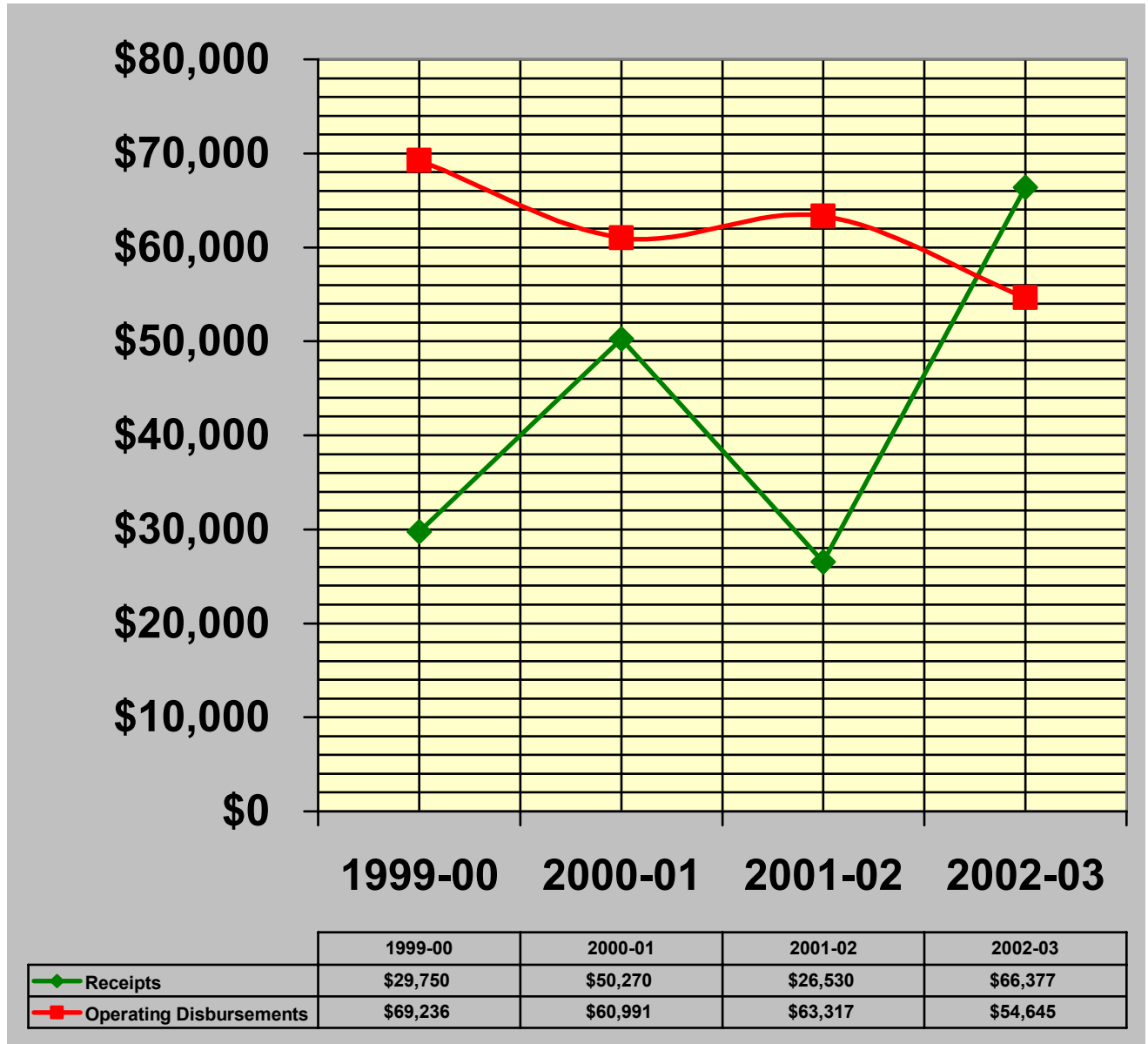
- (1) Stamps, seals and certificates are not required.
(2) Cost of stamps, seals and certificates to be determined, estimate only.
(3) Renewal will not occur until two years after first licensure.
(4) Examination fee set by National Association of State Boards of Geology.
(5) Cost to be determined.

Schedule of Cash Receipts, Disbursements, and Balances

For the Period October 1, 1999 through September 30, 2003

	<u>2002/03</u>	<u>2001/02</u>	<u>2000/01</u>	<u>1999/00</u>
<u>Receipts</u>				
License Fees	\$ 66,377.00	\$ 26,529.95	\$ 50,270.00	\$ 29,750.00
<u>Operating Disbursements</u>				
Personnel Costs	2,800.00	3,000.00	2,800.00	3,100.00
Employee Benefits	208.00	223.30	208.00	237.15
Travel In-State	2,166.70	2,390.76	2,025.34	1,600.56
Travel Out-of-State	845.35	-	715.89	1,867.84
Rentals and Leases	-	200.00	100.00	100.00
Utilities and Communications	737.16	1,327.46	2,495.33	1,892.37
Professional Services	40,830.27	50,628.34	44,470.54	50,121.36
Supplies, Materials, and Operating Expenses	7,057.53	5,547.10	8,176.11	10,316.97
Total Operating Disbursements	<u>54,645.01</u>	<u>63,316.96</u>	<u>60,991.21</u>	<u>69,236.25</u>
Excess (Deficiency) of Receipts over Disbursements	11,731.99	(36,787.01)	(10,721.21)	(39,486.25)
Cash Balance at Beginning of Year	<u>26,528.79</u>	<u>63,315.80</u>	<u>74,037.01</u>	<u>113,523.26</u>
Cash Balance at End of Year	38,260.78	26,528.79	63,315.80	74,037.01
Reserved for Unpaid Obligations	3,257.24	697.00	4,295.00	2,913.64
Unobligated Cash Balance at End of Year	<u>\$ 35,003.54</u>	<u>\$ 25,831.79</u>	<u>\$ 59,020.80</u>	<u>\$ 71,123.37</u>

Operating Receipts vs. Operating Disbursements (Chart)



QUESTIONNAIRES

Board Member Questionnaire

Questionnaires were mailed to all seven board members. Six responded.

Question #1

What are the most significant issues currently facing the Board of Licensure for Professional Geologists and how is the board addressing these issues?

1. (a) "The main issue facing the board is the continued effort to make sure that only licensed geologists are involved in the public practice of geology." *"The board currently relies on licensed geologists as well as state agencies like the Geological Survey of Alabama and the Alabama Department of Environmental Management to provide notice of non-compliant acts."* (b) "We need to strengthen the Memorandum of Understanding that has been established between geologists and engineers."
2. "The most significant issue facing the board is assuring that only licensed professional geologists are involved in the public practice of geology in Alabama."
3. (a) "We should more clearly define the professional responsibilities in the Memorandum of Understanding that has been established between the professional geologists and Professional Engineers." (b) "We should inform the general public that only licensed professional geologists are authorized to publicly practice geology in Alabama."
4. "The most significant issue facing the board is the continued need for education of the public of the existence of the Licensing Act and the need for licensed geologists to perform the public practice of geology." *"Since other professions historically performed geological activities prior to the passing of the Licensing Act, there is a continued need for cooperation and communication to ensure that license geologists should be performing the public practice of geology."*
5. "Making sure that licensed geologists are the ones doing the public practice of geology, is an important issue to protect the public welfare." *"We are continuing to stress this in newsletters and by investigating complaints of unlicensed geologists doing work in Alabama."*
6. "To ensure that geologists are competent to practice geology in the state of Alabama." *"The board through review of applications and renewals strives to ensure that licensees are complying with the law regarding licensure."*

Question #2

What changes to the Board of Licensure for Professional Geologists laws are needed?

1. "None come to mind."
2. "None currently."
3. "None."
4. "No known changes to the act are needed to my knowledge at this time. However, regulatory reviews should occur to ensure that appropriate regulations are in place for continuing education requirements and disciplinary actions."
5. "None at this time."
6. "None at the present time."

Question #3

Is the Board of Licensure for Professional Geologists adequately funded?

6 Yes 0 No 0 No Response

Question #4

Is the Board of Licensure for Professional Geologists adequately staffed?

6 Yes 0 No 0 No Response

Question #5

What is the purpose of the board's fiscal year end balance of unobligated funds?

1. "It is my understanding that the board rolls the fiscal year end balance over each year and does not forward this balance to the General Fund."
2. "It is my understanding that the board rolls the fiscal year end balance of unobligated funds over to the next fiscal year since expenses versus revenue are not balanced on an annual basis (e.g., license renewals, and therefore the associated fees are on a two-year cycle)."
3. "The board's year-end balance of unobligated funds should roll over to the next fiscal year and should be added to the budgeted balance to be available to the board for unforeseen expenses during that fiscal year."

Board Member Questionnaires

4. "Unobligated funds at the end of the fiscal year are necessary to ensure proper operating funds. Renewals of licenses occur every 2 years so funds need to be carried over from year to year to ensure that the proper funding levels are maintained across fiscal years."
5. "Operating income. Licensees are renewed every 2 years, therefore the board must have operating income sufficient to operate until the renewal fees start coming in."
6. "The boards' only source of funds is through license fees. These funds are balanced through adjustment of fees to ensure that the board can continue to operate. Thus, unobligated funds will carry the board through fiscal year 2004 operating in the black."

Licensee Questionnaire

Questionnaires were mailed to one hundred licensed geologists. Sixty-one responded.

Question #1

Do you think regulation of your profession by the Board of Licensure for Professional Geologists is necessary to protect public welfare?

51 Yes 09 No 1 Unknown 0 No Opinion

1. "No, public was served well prior to licensure."
2. "Yes, formal recognition is essential."
3. "No, has anyone ever been prosecuted for practicing geology without a license?"

Question #2

Do you think any of the Board of Licensure for Professional Geologists' laws, rules, and policies are an unnecessary restriction on the practice of your profession?

07 Yes 52 No 0 Unknown 2 No Opinion

1. "Yes, the bar of entry is unnecessarily high for young scientists."
2. "Yes, only in that we are limited in what we're authorized to do."

Question #3

Do you think any of the Board of Licensure for Professional Geologists' requirements are irrelevant to the competent practice of your profession?

09 Yes 47 No 3 Unknown 2 No Opinion

1. "Yes, licensure intended to limit competition in the state. Requirements have little relevance to competent practice."
2. "No, but tentatively. I learned my profession in graduate school and hone it in practice."

Question #4

Are you adequately informed by the Board of Licensure for Professional Geologists of changes to and interpretations of board positions, policies, rules and laws?

40 Yes 10 No 7 Unknown 4 No Opinion

1. "Yes, I am probably adequately informed, but communication is important."
2. "No, the newsletter is distributed infrequently, not all licensed geologists receive the newsletter when it is distributed."
3. "Unknown, nothing has come up yet."
4. "No, web page is outdated and incomplete."

Question #5

Has the Board of Licensure for Professional Geologists performed your licensing and/or renewal in a timely manner?

52 Yes 07 No 2 No Opinion

1. "No, the board is supposed to send renewal materials to all licensed geologists as terms expire. I had to ask repeatedly for renewal materials."
2. "Yes, you are responsive."
3. "No opinion, sort of slow to respond last time."
4. "No, last fall the board staff was late mailing out new license renewal certificate cards."

Question #6

Do you consider mandatory continuing education necessary for competent practice?

39 Yes 19 No 0 Unknown 3 No Opinion

1. "No, mandatory continuing education is a good check but not really necessary for those very active in their work. I think explanations of current project work should serve as an option, i.e., If you don't keep up, you can't do it!"
2. "Yes, in most cases, but not all cases."
3. "Work experience should suffice for continuing education. If a geologist does not work in the field, then he should have to show continuing education."
4. "Yes, to an extent. As for part-time practicing geologists it can be difficult to work in courses and costly too."
5. "No, it's an expensive imposition on a struggling profession."
6. "Yes, but at fewer hours than now required."

Question #7

Has the Board of Licensure for Professional Geologists approved sufficient providers of continuing education to ensure your reasonable access to necessary continuing education hours?

41 Yes 08 No 10 Unknown 2 No Opinion

1. "No, have failed miserably and cannot seem to find anyone who will approve courses. Won't make a decision."
2. "No, I have an ongoing problem with trying to find accessible CE."
3. "Unknown, they need to better publicize what can be attended to receive continuing education credit."

Question #8

What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the Board of Licensure for Professional Geologists doing to address the issue(s)?

1. "There are not enough providers in the local area to make the mandatory CEU (PDH) requirements in order to schedule time with work requirements. It is difficult working 50+ hours per week to meet company expectations, balance family life and take the time to travel to get the CEUs. Additionally, the continuing education has not made a significant contribution to the requirements of my position."
2. "We need to continue working with the Professional Engineers Board, as well as the Professional Surveys Board to make sure we have well defined understandings of potentially overlapping areas. Enforcement also needs to be improved."
3. "Communications." *"The board communicates by mail."*
4. "Engineers practicing geology." *"Unknown what the board is doing to address this issue."*
5. "The most significant issue facing my profession in the state is the practice of geology by other professions (i.e., engineers)." *"The board has attempted to address this issue but making progress when opposed by a group as powerful in this state as registered engineers is very difficult."*
6. "Solvency of ADEM UST Trust Fund." *"Board has not been involved with this issue to my knowledge."*
7. "The profession needs legitimacy and the board provides this."
8. "Most significant issue is jeopardizing of educational programs and state agencies by state government through budget cuts." *"The board is doing nothing as far as I know."*
9. "Erosion of geologists' legal authority by the engineering profession." *"As far as I can tell the ABLPG is doing little or nothing in this regard."*
10. "Defining task that should be the exclusive responsibility of professional geologists." *"Working with other boards to recognize these tasks, (ex: PE/PLS)."*

11. "Conflicts between Professional Engineers Board and Professional Geologists Board in deciding competency."
12. "Continuing education seems to be the prevalent issue. A number of geologists seem to be concerned (especially in the consulting community where time is money) that they can't afford to lose billable time to participate in the continuing education, to the extent required."
13. "Insure that anyone practicing geology in Alabama is qualified to do so." *"The board provides a means to do this."*
14. "Sustained subsistence is probably the paramount concern of the PG's that I am associated with." *"However, the ABLPG allows non-licensed geologists to testify as geologists before state regulatory committee hearings. There are little to no teeth in the financial benefits for licensure."*
15. "Civil engineers for many years controlled issues related to geologists." *"Geology for geologists."*
16. "The Alabama Oil & Gas Board being allowed to receive adequate state funding. If they can't operate sufficiently, the adverse impact filters down to private companies that produce natural gas like my employer."
17. (a) "Insure that geologist becoming licensed in the state are competent to practice geology." (b) "Review of applications and renewals to maintain high standards of practice."
18. "ADEM not enforcing the law requiring geologic witnesses to be licensed."
19. "Unlicensed geologists practicing in Alabama. Having a licensed geologist signing off on their work without having reviewed the work performed."
20. "Maintaining professional standards and ethics to insure that the public gets the best possible services from the geologic community." *"Board actions are improving the professional standards."*
21. "There is nothing in our rules that states that public safety is the most important factor in any job. Not long ago this would have helped in a job that involved client confidentiality."
22. "Federal and state regulations concerning environmental issues and management." *"I'm not sure what they are doing, and am not convinced they need to be involved."*
23. "The rift between engineers and geologists and their overlapping practice." *"The board is working with the Professional Engineers Board."*
24. "Need more interaction from board on getting jobs." *"They only ask for payment of registration fees."*
25. "Other professionals, i.e., engineers, performing geologic jobs for which they have inadequate training."
26. "I don't like the fact that there are people grandfathered in who can't pass the tests. There is no longer a newsletter and the roster is unavailable online."
27. "The board appears to have been created in order to generate more bureaucratic jobs from fees and serves little to no useful function and has resulted in no obvious benefits for the licensed geologists."
28. "Engineers encroaching on practices that should be reserved for professional geologists only."

29. "There is a lack of public awareness of the need for professional geologists in the State of Alabama. The average Alabamian has very little understanding of science. The Board of Licensure has no outreach program."
30. "Compensation, maintaining registration has and will continue to increase an individual's compensation for services provided. Costs of continuing education and time associated with it."
31. "Letting engineers do geology."
32. "The lack of understanding by the general public and many people in municipal and government service as to the role of the geologist, engineer or environmental scientist." *"The Board of Licensure for Professional Geologists is helpful in defining the geologists role versus other professions."*
33. "Overlap of the work of professional geologists and professional engineers." *"Efforts have been made and continue to be made by both boards to address the areas of overlap."*
34. "Not sure, perhaps the issue of unqualified individuals providing information regarding geologic matters." *"The board requires registration that addresses this issue."*
35. "Public practice of geology by unlicensed geologists." *"Board still getting word out that licensure is needed. Jefferson County had out-of-state geological consultant without state license on payroll."*
36. "Management and professional stewardship of the natural resources. Proper and scientifically responsible redevelopment, thus revitalizing economic zones and assets while protecting the public against unknown hazards."

Question #9

Do you think the Board of Licensure for Professional Geologists and its staff are satisfactorily performing their duties?

40 Yes 05 No 11 Unknown 5 No Opinion

1. "No, renewal materials must be distributed to licensees. Newsletter should be sent to all members quarterly. Board should address issues that are relevant to the geologist community."
2. "No, why aren't we authorized to provide Phase III remediation? I took the same grad school courses the engineers did in this subject."
3. "Yes, I have full confidence in the credentials and professionalism of the board members. I know them all personally and have great respect for them."
4. "Unknown, sometimes."
5. "No, feedback is slow."

Question #10

Has any member of the Board of Licensure for Professional Geologists or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a board service for you?

 00 Yes 61 No 0 Unknown 0 No Opinion

1. "The ABLPG has been entirely professional and honorable."

Complainant Questionnaire

Questionnaires were mailed to one complainant. One responded.

Question #1

Was your complaint filed with the Board of Licensure for Professional Geologists by:

 1 Mail Phone Fax Other Unknown

Question #2

Was receipt of your complaint promptly acknowledged?

 1 Yes No Unknown

If yes, approximately how long after you filed your complaint were you contacted by the Board of Licensure for Professional Geologists?

 1 Immediately Within 10 days Within 20 days

 Within 30 days More than 30 days Did not respond

 Unknown

Question #3

Was the employee who responded to your complaint knowledgeable and courteous?

 Knowledgeable 1 Courteous Neither Unknown

Question #4

Did the Board of Licensure for Professional Geologists communicate the results of the investigation of your complaint to you?

 Yes 1 No Unknown

Question #5

Do you think the Board of Licensure for Professional Geologists did everything it could to resolve your complaint?

_____ Yes _____ No 1 Unknown

Question #6

Were you satisfied with your dealings with the Board of Licensure for Professional Geologists?

_____ Yes 1 No _____ Unknown

APPENDICES

Statutory Authority

CHAPTER 41. GEOLOGISTS.

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this chapter became effective July 25, 1995, and shall be implemented with the beginning of the 1995-96 fiscal year.

REFERENCES

ADMINISTRATIVE CODE

7B Ala. Admin. Code 335-14-1-.01 et seq., Environmental Management; Land Division: Hazardous Waste Management System.

7D Ala. Admin. Code 335-15-4-.04, Environmental Management; Land Division: Hazardous Waste Program, Voluntary Cleanup Plans.

8 Ala. Admin. Code 364-X-1-.01 et seq., Licensure for Professional Geologists.

§ 34-41-1. Short title. [AL ST SEC 34-41-1]

Current through End of 2003 Organizational, Regular and 1st Special Session.

This chapter shall be known and may be cited as the "Alabama Professional Geologists Licensing Act." (Acts 1995, No. 95-399, p. 820, § 1.)

§ 34-41-2. Purposes of chapter. [AL ST SEC 34-41-2]

Current through End of 2003 Organizational, Regular and 1st Special Session.

(a) The Alabama Professional Geologists Licensing Act is enacted for the following purposes:

(1) To protect life, property, health, safety, public welfare, and the environment through the regulation of the practice of geology in the State of Alabama.

(2) To define the practice of geology as a profession and to establish minimum professional standards for ethical conduct, professional responsibility, education, and experience.

(3) To prevent abuses of the practice of geology by untrained or unprincipled persons.

(b) The intent of this chapter is to ensure that only those persons who are registered and licensed pursuant to this chapter, unless they are exempted from licensing, shall publicly practice, offer, or attempt to publicly practice geology or any specialty thereof, claim any specialty in geology as a professional, business, or commercial identification, title, name, representation, or claim, or otherwise hold themselves out to the public as being qualified to practice geology or any of its specialties. Only those persons licensed pursuant to this chapter may use the term "licensed professional geologist."

(Acts 1995, No. 95-399, p. 820, § 2.)

§ 34-41-3. Definitions. [AL ST SEC 34-41-3]

Current through End of 2003 Organizational, Regular and 1st Special Session.

References

When used in this chapter, the following words have the following meanings:

- (1) Board. The Alabama Board of Licensure for Professional Geologists.
 - (2) Geologist. A person who holds a degree in the geological sciences from an accredited college or university.
 - (3) Geologist-in-training. A person who holds a degree in the geological sciences from an accredited college or university and who has successfully passed the part of the professional examination covering fundamental or academic geological subjects.
 - (4) Geology. The science dealing with the earth and its history; its constituent rocks, minerals, liquids, gases, and other materials of which it is composed, and the study of the processes responsible for the development and change in the component parts of the earth, for the benefit of mankind.
 - (5) Good moral character. Character that tends to ensure the faithful discharge of the professional duties of the licensed professional geologist based on truth and adherence to ethical principles.
 - (6) License. A certificate issued by the board recognizing the individual named in this certificate as meeting the requirements for licensing under this chapter.
 - (7) Licensed professional geologist. A person who holds a license as a professional geologist under this chapter.
 - (8) Public practice of geology. The performance of geological service or work, including, but not limited to, consultation, geological investigation, surveys, evaluations, planning, mapping, or review of geological work related to the public practice of geology, or both, in which the performance is related to the public welfare or safeguarding of life, health, property, and the environment except as otherwise specifically provided by this chapter. A person publicly practices or offers to publicly practice geology if the person does any of the following:
 - a. Offers to or provides geological work or services to the public in any branch of the profession of geology.
 - b. Represents himself or herself to be a licensed professional geologist by verbal claim, sign, advertisement, letterhead, card, or in another way.
 - c. Implies that he or she is a licensed professional geologist or that he or she is registered under this chapter through the use of some other title.
 - d. Holds himself or herself out as one who performs or is able to perform any geological services or work recognized by the board as the public practice of geology.This definition shall not be construed to regulate or interfere with the legitimate practice of any licensed professional, other than geologists.
 - (9) Responsible charge of work. The independent control and direction by the use of initiative, skill, and independent judgment of geological work or the supervision of such work.
 - (10) Specialty. A branch of geology which is recognized as a subdiscipline for purposes of certification after registration as a licensed professional geologist.
 - (11) Subordinate. A person who assists a licensed professional geologist in the public practice of geology without assuming the responsible charge of work and who is under the direction and supervision of a licensed professional geologist.
 - (12) Unprofessional conduct. The practice of geology by a licensed professional geologist who willfully performs any act, causes omissions, or makes any assertions or representations which are fraudulent, deceitful, or misleading, or which in any manner whatsoever discredits or tends to discredit the profession of geology.
- (Acts 1995, No. 95-399, p. 820, § 3.)

REFERENCES

ADMINISTRATIVE CODE

8 Ala. Admin. Code 364-X-2-.01, Licensure for Professional Geologists; Definition of Terms.

§ 34-41-4. Board created; membership generally. [AL ST SEC 34-41-4]

Current through End of 2003 Organizational, Regular and 1st Special Session.

Historical Notes References

(a) There is created the Alabama Board of Licensure for Professional Geologists which shall administer and enforce this chapter.

(b) The board shall consist of seven members appointed by the Governor from a list of nominees submitted by the board, or any entity designated by the board. Members of the board, except for the initial board, shall be licensed professional geologists. Whenever possible the membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.

(c) Each member of the board shall be a citizen of the United States, a resident of the State of Alabama for at least five years immediately preceding appointment, reside in the state during the term of office, and be at least 25 years of age.

(d) All members of the initial board shall be appointed by the Governor from a list of nominees who shall at the time of their appointment qualify for licensing under this chapter and become duly licensed during their term. Membership of the board shall include at least one representative member from each of the following professional subgroups of geologists: Faculty of the departments of geology at colleges and universities in the State of Alabama that grant degrees in the geological sciences; governmental agencies employing geologists; businesses, exclusive of those exempted herein; mining industry; petroleum industry; geotechnical and/or environmental engineering firms; and independent geological consultants.

(e) After the establishment of the initial board, all members of the board shall be licensed under this chapter. The term of office of each member of the board shall be three years. Notwithstanding the foregoing, of the first members appointed, two shall be appointed for a term of one year, two for terms of two years, and three for terms of three years. No member shall serve more than two consecutive three-year terms, without interruption in service of at least three years.

(f) Each term on the board shall expire on September 30 of the year in which the term expires. When the term of a member expires, the Governor shall appoint a new member or reappoint the current member for a full term under subsections (d) and (e). If a vacancy occurs, within 90 days of the vacancy the Governor shall appoint a replacement to fill the vacancy for the remainder of the unexpired term. Except for the members of the initial board, all appointments and reappointments to the board shall be made by the Governor from a list of nominees submitted by the board, or any entity designated by the board. In appointing members to the board, the Governor shall strive to achieve diversity in race, gender, geography, residence, and economic condition.

(g) The Governor may remove a member of the board only for neglect of duty, an unexcused failure to attend more than one of the regularly scheduled meetings held in a calendar year during the term in office of the member, malfeasance, violation of this chapter, or conviction of a felony or other crime of moral turpitude.

(h) Members of the board shall receive reimbursement for expenses incurred in the performance of duties of one hundred dollars (\$100) per day plus mileage payable at the same rate as paid for state officers and employees for each day of actual attendance at a regular or special meeting of the board.

(i) The board may employ the necessary personnel for performance of its functions and fix their compensation. The board may appoint committees to aid in the performance of its functions.

(Acts 1995, No. 95-399, p. 820, § 4; Acts 1997, No. 97-156, p. 206, § 3; Act 2001-251, p. 302, § 3.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 1997 amendment, effective March 26, 1997, in subsection (h) inserted "of one hundred dollars (\$100) per day plus mileage payable at the same rate as paid for state officers and employees for each day of actual attendance at a regular or special meeting of the board".

The 2001 amendment, effective April 19, 2001, in subsection (b), in the first sentence added "from a list of nominees submitted by the board, or any entity designated by the board" and rewrote the third sentence; in subsection (e) inserted "of the board" following "all members"; and in subsection (f) added the final two sentences.

Code Commissioner's Notes

Acts 1997, No. 97-156, § 2, provides: "The existence and functioning of the Alabama Board of Licensure for

Professional Geologists, created and functioning pursuant to Sections 34-41-1 to 34-41-24, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved."

Act 2001-251, § 2 provides: "The existence and functioning of the Alabama Board of Licensure for Professional Geologists, created and functioning pursuant to Sections 34-41-1 to 34-41-24, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved."


REFERENCES

ADMINISTRATIVE CODE

8 Ala. Admin. Code 364-X-1-.01 et seq., Licensure for Professional Geologists; Composition and Selection of the Board.

LIBRARY REFERENCES

American Digest System:

Licenses 21; States  45.

Corpus Juris Secundum:

C.J.S. Agriculture § 4.5; Architects § 4; Licenses §§ 37-38; States §§ 79-80, 82, 136.

§ 34-41-5. Powers of board. [AL ST SEC 34-41-5]

Current through End of 2003 Organizational, Regular and 1st Special Session.

References

(a) The board shall elect from its membership a chair, a vice chair, and a secretary-treasurer. The board shall adopt rules to govern its proceedings. A majority of the appointed membership of the board shall constitute a quorum for all meetings.

(b) The board shall, by regulation, adopt an administrative code and a code of professional conduct, which shall be published by the board and distributed to every applicant for licensing and to every licensee under this chapter. The publication shall constitute due notice to all applicants and licensees. The board shall solicit comments from the profession at large concerning these codes and may revise and amend the codes.

(c) The board shall have the authority to prepare, administer, and grade oral or written examinations, or both, as required or permitted by this chapter to test an applicant's academic preparation and ability to apply such training to the public practice of geology. The board may take any actions necessary to prepare, administer, and grade the examinations, to determine whether the qualifications of an applicant for licensing meet the minimum standards set forth in this chapter, and to issue a license to each successful applicant. The board shall have the authority to adopt or recognize, in part or in whole, examinations prepared, administered, or graded by other organizations, on a regional or national basis, which the board determines are appropriate to measure the qualifications of an applicant for licensing as a professional geologist or in any specialty of geology. The examination questions, correct answers, and any individual applicant's completed examination shall be available to the board. The board shall retain the authority to determine a passing grade for purposes of registration as a professional geologist in this state.

(d) The board shall consider all applications for licensing as a professional geologist or certification in any specialty thereof recognized by the board pursuant to this chapter and issue licenses as provided in this chapter. The board shall adopt a seal which shall be affixed to all licenses issued by the board.

(e) The board may authorize necessary expenditures to implement this chapter from the fees which it collects. The expenditures shall not exceed the revenues of the board during any fiscal year.

(f) The board shall meet within 30 days after a quorum of its first members is appointed, and thereafter shall hold at least three regular meetings each year. The board may provide for additional special meetings including hearings, extra working days for applications review, and examination proctoring. Minutes of each meeting of the board, recording the members present and the business taken, shall be signed and kept by the secretary-treasurer or an assistant secretary appointed by the board.

(g) The board shall establish and receive reasonable and necessary fees to be charged the applicants and registrants to support the administration and enforcement of this chapter. The secretary-treasurer shall prepare, certify, and file an annual report of all the receipts, expenditures, and fund balances with the state Comptroller.

(h) The board shall approve licensing through comity for any individual already licensed as a professional

geologist or the equivalent in any other state, territory, or possession of the United States, or the District of Columbia, if the license is current and, in the opinion of the board, the license was issued in compliance with licensing requirements that are substantially the same as, or more stringent than, those established pursuant to this chapter. The board may require additional proof of experience, if desired.

(i) The board shall renew and reissue certificates as provided in this chapter. As a condition of reissuance or renewal, the board shall have the authority to require, in general or in individual cases, evidence of continued competence in the practice of geology through means such as, but not limited to, the review of qualifications, experiences, and requirements for continuing professional education.

(j) Each present and former member of the board, its agents, employees, and members of committees appointed by the board to assist the board in carrying out its duties and responsibilities, shall be exempt from civil liability for any act or omission occurring while acting in an official capacity. The Attorney General or his or her appointed designee shall, without assessing charges to the board for legal services, defend the board and each present and former member of the board, its agents, employees, and members of committees appointed by the board in any action arising from any act or omission. The Attorney General or his or her appointed designee shall act as legal advisor to the board.

(k) The board may investigate all reasonably documented complaints of violations of this chapter and of unprofessional conduct by licensed and nonlicensed geologists. The board shall have the authority to refuse issuance or renewal of a license or to suspend or revoke a license. The board may impose sanctions including restrictions on the practice of any registrant or of a person, firm, or corporation practicing under the limitations of this chapter, for violations of this chapter or the rules and regulations promulgated hereunder.

(l) The board shall have the power to administer oaths and affirmations and to issue subpoenas to compel the attendance of witnesses and the production of evidence, and shall have the authority to issue cease and desist orders and to seek injunctions against violations of this chapter or the rules and regulations promulgated hereunder, as provided herein.

(m) The board shall, within one year of its appointment, establish between it and the Alabama State Board of Professional Engineers and Land Surveyors, a memorandum of understanding, containing guidelines for resolving jurisdictional concerns that may arise between registered engineers and registered geologists.

(n) The board shall have all other powers and authority consistent with this section, not enumerated herein, as are necessary for the administration and enforcement of this chapter.

(Acts 1995, No. 95-399, p. 820, § 5.)

REFERENCES

ADMINISTRATIVE CODE

8 Ala. Admin. Code 364-X-4-.01 et seq., Licensure for Professional Geologists; Fees.

8 Ala. Admin. Code 364-X-4-.05, Licensure for Professional Geologists; Fees Not Refundable.

8 Ala. Admin. Code 364-X-19-.01 et seq., Licensure for Professional Geologists; Rule Making Procedures.

8 Ala. Admin. Code 364-X-20-.01, Licensure for Professional Geologists; Severability.

8 Ala. Admin. Code 364-X-21-.01 et seq., Licensure for Professional Geologists; Amendment of Rules.

LIBRARY REFERENCES

American Digest System:

Licenses  21.

Corpus Juris Secundum:

C.J.S. Agriculture § 4.5; Licenses §§ 37-38.

§ 34-41-6. Establishment of revenue trust fund. [AL ST SEC 34-41-6]

Current through End of 2003 Organizational, Regular and 1st Special Session.

[Historical Notes](#) [References](#)

There is established a separate revenue trust fund in the State Treasury to be known as the "Alabama Board of Licensure for Professional Geologists Fund." All receipts and disciplinary fines collected by the board under this chapter shall be deposited in this fund and used only to implement this chapter. Monies shall be disbursed by

warrant of the state Comptroller upon the State Treasury, upon itemized vouchers approved by the chair of the board or an authorized designee. No funds shall be withdrawn or expended except as budgeted and allotted according to Sections 41-4-80 to 41-4-96, inclusive, and 41-19-1 to 41-19-12, inclusive, and only in amounts as stipulated in the general appropriations bill or other appropriation bills.
(Acts 1995, No. 95-399, p. 820, § 6.)

HISTORICAL NOTES

HISTORY


Code Commissioner's Notes

In 1995, the Code Commissioner inserted "41-4-96" for "41-4-98" to correctly cite the referenced language.

REFERENCES

LIBRARY REFERENCES

American Digest System:

Licenses  33.

Corpus Juris Secundum:

C.J.S. Licenses § 71.

§ 34-41-7. Applicability; exemptions. [AL ST SEC 34-41-7]

Current through End of 2003 Organizational, Regular and 1st Special Session.

References

(a) Except as provided in this section, any person who publicly practices, or offers or attempts to publicly practice, geology in the State of Alabama is subject to this chapter.

(b) The following persons are exempt from licensing under this chapter:

(1) Persons engaged solely in teaching of geology or related physical or natural sciences, and persons engaged solely in geologic research conducted through academic institutions, agencies, or government and nonprofit research organizations.

(2) Officers and employees of the United States of America and the State of Alabama practicing solely as officers and employees.

(3) Officers and employees of businesses and industries practicing solely as officers and employees, and individuals if they do not offer their professional services to the public for hire and are not engaged in activities that require the signature of a licensed professional geologist.

(4) Officers and employees of companies and corporations practicing solely as such officers and employees who work as a sole proprietorship in mining and mineral exploration and development and who do not offer their professional services to the public for hire or who are not engaged in activities that require the signature of a licensed professional geologist.

(5) Officers and employees of companies and corporations and individuals who work as a sole proprietorship in oil and/or gas exploration and development.

(6) A person who is subordinate to a licensed professional geologist or who is a geologist-in-training licensed under this chapter but only insofar as he or she acts solely in that capacity. This exemption does not permit the subordinate to practice geology or use the term "licensed professional geologist."

(Acts 1995, No. 95-399, p. 820, § 7.)

REFERENCES

LIBRARY REFERENCES

American Digest System:

Licenses ☒ 11(1), 19(3).

Corpus Juris Secundum:

C.J.S. Agriculture § 4.5; Licenses §§ 34-36.

§ 34-41-8. Acts not prohibited. [AL ST SEC 34-41-8]

Current through End of 2003 Organizational, Regular and 1st Special Session.

References

(a) This chapter does not prohibit one or more geologists from practicing through the business organizations of a sole proprietorship, partnership, corporation, or professional association. In a partnership, corporation, or professional association, in which the primary activity consists of geological services affecting the public welfare and which require licensing pursuant to this chapter, at least one partner or officer shall be a licensed geologist.

(b) This chapter shall not be construed to prevent or to affect:

(1) The practice of any profession or trade for which a license is required under any other law of this state, including, but not limited to, the practice of registered professional engineers from lawfully practicing soil mechanics, foundations engineering, and other professional engineering, licensed architects or landscape architects from lawfully practicing architecture or landscape architecture, licensed land surveyors from lawfully practicing surveying, or the practice of soil science by certified professionals.

(2) The public practice of geology by a person who is not a resident of this state and who has no established place of business in this state, when that practice does not exceed in the aggregate more than 90 days in any calendar year, provided the person is duly licensed to practice the profession in another state where the requirements for a license are not less than those specified in this chapter for obtaining the license required for the work. Within 10 days of entering this state for commencing of the work, a nonresident claiming an exemption under this subdivision shall file a statement with the board which includes his or her name, residence, and license number, and by what authority the license was issued. Upon the completion of the work, the person shall file a statement of the time engaged in the work within the state.
(Acts 1995, No. 95-399, p. 820, § 8.)

REFERENCES

ADMINISTRATIVE CODE

8 Ala. Admin. Code 364-X-12-.01 et seq., Licensure for Professional Geologists; Interim Permits for Comity.

8 Ala. Admin. Code 364-X-15-.01 et seq., Licensure for Professional Geologists; Compliance and Enforcement.

LIBRARY REFERENCES

American Digest System:

Licenses ☒ 25.

Corpus Juris Secundum:

C.J.S. Agriculture § 4.5; Licenses §§ 41, 45-46.

§ 34-41-9. Application. [AL ST SEC 34-41-9]

Current through End of 2003 Organizational, Regular and 1st Special Session.

References

An application for licensing as a professional geologist or a geologist-in-training shall be made under oath and shall show: (1) the education of the applicant; (2) a detailed summary of his or her actual geological work experience; (3) a signed statement that the applicant has read and shall adhere to the code of professional conduct adopted by the board; and (4) not less than five references, three or more of whom shall be geologists having personal knowledge of the geologic experience of the applicant. The board shall determine a reasonable application fee which shall accompany each application.

(Acts 1995, No. 95-399, p. 820, § 9.)

REFERENCES

ADMINISTRATIVE CODE

8 Ala. Admin. Code 364-X-3-.01 et seq., Licensure for Professional Geologists; Applications.

8 Ala. Admin. Code 364-X-4-.02, Licensure for Professional Geologists; Application, Certification and Registration Fees.

8 Ala. Admin. Code 364-X-4-.05, Licensure for Professional Geologists; Fees Not Refundable.

LIBRARY REFERENCES

American Digest System:

Licenses  22.

Corpus Juris Secundum:

C.J.S. Licenses § 43.

§ 34-41-10. Minimum requirements to be eligible for license. [AL ST SEC 34-41-10]

Current through End of 2003 Organizational, Regular and 1st Special Session.

[Historical Notes](#) [References](#)

(a) An applicant is eligible for a license as a professional geologist in the State of Alabama if the applicant meets the following minimum requirements:

(1) Is of good moral character.

(2) Has graduated from an accredited college or university with a degree in geology, engineering geology, or one of the related geological sciences if the applicant has completed a minimum of 30 semester hours or their equivalent of course work in geological science. The appropriate college or university shall document educational experience by submitting a certified written reference or certified transcript directly to the board.

(3) Have at least five years of full-time professional geological work after receipt of a bachelor's degree, either as a geologist-in-training or in geologic work related to the public practice of geology which is satisfactory to the board. The following criteria of education and experience qualify toward accumulation of the required years of professional work:

a. The board, at its discretion, may give a maximum of one year's credit for each graduate degree in geology, engineering geology, or one of the related geological sciences.

b. The board may consider work in related fields as acceptable work experience.

c. In all cases, the board shall determine if the applicant has demonstrated his or her ability by having gained experience by performing work in a responsible position. The adequacy of the required supervision and experience shall be documented to the board as described herein below.

d. Professional geologic research of applicants either teaching at the college or university level or in research agencies of state or federal government shall be credited and applied toward the professional requirements herein, provided the work or research in the geological sciences can be documented in writing and is demonstrated to be of a sufficiently responsible nature to be equivalent to the professional requirements as set forth above.

e. The professional geologic work experience of the applicant shall be documented in writing. Except as otherwise provided in this subdivision, work experience obtained before receipt of a bachelor's degree shall not be accepted as credit toward professional geologic work experience.

(4) Passes an examination which is designed to demonstrate that the applicant has the necessary knowledge and requisite skill to exercise the responsibilities of the public practice of geology.

(b) The board shall waive the requirements of subdivision (4) of subsection (a) if the applicant meets all other requirements of this chapter and makes written application to the board not later than one year after the initial board requests applications.

(Acts 1995, No. 95-399, p. 820, § 10.)

HISTORICAL NOTES

HISTORY

Code Commissioner's Notes

In 1995, the Code Commissioner inserted "of subsection (a)" following "subdivision (4)" in subsection (b) to properly cite the referenced subdivision. The Code Commissioner also deleted "of this section" in subsection (b) because the language was surplusage.


REFERENCES

ADMINISTRATIVE CODE

8 Ala. Admin. Code 364-X-5-.01, Licensure for Professional Geologists; Curricula Approved by the Board.
8 Ala. Admin. Code 364-X-6-.01 et seq., Licensure for Professional Geologists; Experience.
8 Ala. Admin. Code 364-X-7-.01 et seq., Licensure for Professional Geologists; References.

LIBRARY REFERENCES

American Digest System:

Licenses  20.

Corpus Juris Secundum:

C.J.S. Licenses §§ 39-41.

§ 34-41-11. Examinations. [AL ST SEC 34-41-11]

Current through End of 2003 Organizational, Regular and 1st Special Session.

References

Annual examinations shall be formulated and conducted by the board at a time and place the board shall determine. The board shall by regulation establish the fee required for examination.
(Acts 1995, No. 95-399, p. 820, § 11.)

REFERENCES

ADMINISTRATIVE CODE

8 Ala. Admin. Code 364-X-4-.03, Licensure for Professional Geologists; Examination Fees.
8 Ala. Admin. Code 364-X-8-.01 et seq., Licensure for Professional Geologists; Examinations.
8 Ala. Admin. Code 364-X-13-.04, Licensure for Professional Geologists; Expiration and Renewals: Examination for Record Purposes.

LIBRARY REFERENCES

American Digest System:

Licenses  20.

Corpus Juris Secundum:

C.J.S. Licenses §§ 39-41.

§ 34-41-12. Issuance of license. [AL ST SEC 34-41-12]

Current through End of 2003 Organizational, Regular and 1st Special Session.

References

(a) Upon payment of a license fee the board shall issue a biennial license to any applicant who has satisfactorily

met all the requirements of this chapter. Licenses shall show the full name of the licensee, give a serial number, and shall be signed by both the chair and secretary-treasurer of the board under the seal of the board. The issuance of a license by the board shall be prima facie evidence that the person named therein is entitled to all the rights and privileges of a licensed professional geologist while the license remains in full force and effect.

(b) Each license expires on a biennial basis or at another interval determined by the board unless the license is renewed. An application for renewal shall be filed with the board and shall be accompanied by the renewal fee prescribed by the board. A license which has expired for failure to renew may be restored only after application and payment of the prescribed restoration fee, provided the renewal applicant meets all other provisions established by the board.

(c) An applicant for renewal of a license shall have satisfactorily maintained continuing education requirements as specified by the board.

(d) A new license to replace any license lost, destroyed, or mutilated may be issued subject to the rules of the board and payment of a fee established by the board.
(Acts 1995, No. 95-399, p. 820, § 12.)

REFERENCES

ADMINISTRATIVE CODE

8 Ala. Admin. Code 364-X-4-.02, Licensure for Professional Geologists; Application, Certification and Registration Fees.

8 Ala. Admin. Code 364-X-4-.05, Licensure for Professional Geologists; Renewal Fee.

8 Ala. Admin. Code 364-X-4-.05, Licensure for Professional Geologists; Fees Not Refundable.

8 Ala. Admin. Code 364-X-10-.01 et seq., Licensure for Professional Geologists; Licensure.

8 Ala. Admin. Code 364-X-13-.01 et seq., Licensure for Professional Geologists; Expiration and Renewals.

LIBRARY REFERENCES

American Digest System:

Licenses  22, 36.

Corpus Juris Secundum:

C.J.S. Licenses §§ 43, 45-48.

§ 34-41-13. Certification in specialty. [AL ST SEC 34-41-13]

Current through End of 2003 Organizational, Regular and 1st Special Session.

References

If, in the opinion of the board, there is a need, in addition to licensing as a professional geologist, for more definitive recognition of geologic expertise, qualified persons may also be eligible for certification in a specialty. Specialties may be created by the board after notice to all Alabama licensed professional geologists of a hearing to explain the proposed specialty or specialties and after approval of the proposed specialty or specialties by a majority of all Alabama licensed professional geologists. Specialties shall be created by regulations which shall contain any required additional qualifications or limitations. Only licensed professional geologists shall be eligible for certification in a specialty. Applications may be submitted for both licensing and certification in a specialty at the same time, but the applicant shall be approved for licensing as a professional geologist before being considered for certification in a specialty. The certification in a specialty is dependent, in every case, upon the approval of licensing as a professional geologist.

(Acts 1995, No. 95-399, p. 820, § 13.)

REFERENCES

ADMINISTRATIVE CODE

8 Ala. Admin. Code 364-X-9-.01 et seq., Licensure for Professional Geologists; Classifications and Specialties of

Geology.

LIBRARY REFERENCES

American Digest System:

Licenses  11(1).

Corpus Juris Secundum:

C.J.S. Licenses § 34.

§ 34-41-14. Seal. [AL ST SEC 34-41-14]

Current through End of 2003 Organizational, Regular and 1st Special Session.

References

(a) Each geologist, upon the issuance of a license, shall obtain from the secretary-treasurer of the board or his or her designee, at a cost prescribed by the board, a seal of the design authorized by the board bearing the name of the licensee and the legend "Licensed Professional Geologist -- State of Alabama" together with the serial number of the licensee. A licensed professional geologist shall approve, sign, and affix his or her seal to all drawings, reports, or other geologic papers, or documents involving the public practice of geology which have been prepared by the licensed professional geologist or a subordinate employee under the direction of the licensed professional geologist for the use of, or for delivery to, any person or for public record within the State of Alabama.

(b) A qualified nonresident geologist practicing geology in the State of Alabama under temporary approval of the board shall sign and impress with his or her authorized licensed seal all drawings, reports or other geologic papers, or documents involving the public practice of geology which have been prepared by a licensed geologist or a subordinate employee under his or her direction for the use of, or for delivery to, any person or for public record within the State of Alabama.

(Acts 1995, No. 95-399, p. 820, § 14.)

REFERENCES

ADMINISTRATIVE CODE

8 Ala. Admin. Code 364-X-11-.01 et seq., Licensure for Professional Geologists; Seals.

8 Ala. Admin. Code 364-X-16-.11, Licensure for Professional Geologists; Disciplinary Action and Procedures: Petition for Intervention.

LIBRARY REFERENCES

American Digest System:

Licenses  25.

Corpus Juris Secundum:

C.J.S. Agriculture § 4.5; Licenses §§ 41, 45-46.

§ 34-41-15. Register of applications. [AL ST SEC 34-41-15]

Current through End of 2003 Organizational, Regular and 1st Special Session.

References

(a) The board shall keep a register of all applications for licensing. The register shall include:

- (1) The name, age, and address of each applicant.
- (2) The date of the application.
- (3) The place of business of the applicant.
- (4) The education of the applicant and other pertinent qualifications.
- (5) Whether an examination was required.
- (6) Whether the applicant was licensed in another state.
- (7) Whether the license was granted.

- (8) The dates of the actions by the board.
 - (9) Any other information deemed necessary by the board.
 - (b) All official records of the board or affidavits by the secretary-treasurer of the board as to the content of such records shall be prima facie evidence of all matters required to be kept therein.
 - (c) The board shall treat as confidential and not subject to disclosure, except to the extent required by law or by rule or regulation of the board, individual test scores and applications and material relating thereto, including letters of reference relating to an application.
- (Acts 1995, No. 95-399, p. 820, § 15.)

REFERENCES

ADMINISTRATIVE CODE

8 Ala. Admin. Code 364-X-3-.04, Licensure for Professional Geologists; Disposition of Applications.
 8 Ala. Admin. Code 364-X-7-.03, Licensure for Professional Geologists; Confidentiality of Reference Replies.
 8 Ala. Admin. Code 364-X-8-.07, Licensure for Professional Geologists; Examinations: Reference Points.

LIBRARY REFERENCES

American Digest System:

Licenses  24.

Corpus Juris Secundum:

C.J.S. Licenses § 37.

§ 34-41-16. Roster. [AL ST SEC 34-41-16]

Current through End of 2003 Organizational, Regular and 1st Special Session.

References

The secretary-treasurer of the board shall publish biennially a roster showing the names, license numbers, places of business, and business and residence addresses of all professional geologists licensed in Alabama. Copies of this roster shall be made available to the public upon request and payment of a reasonable fee.
 (Acts 1995, No. 95-399, p. 820, § 16.)


REFERENCES

ADMINISTRATIVE CODE

8 Ala. Admin. Code 364-X-1-.15, Licensure for Professional Geologists; Organization and Administrative Procedures: Roster.
 8 Ala. Admin. Code 364-X-4-.01 et seq., Licensure for Professional Geologists; Fees.

LIBRARY REFERENCES

American Digest System:

Licenses  24.

Corpus Juris Secundum:

C.J.S. Licenses § 37.

§ 34-41-17. Written charges against licensed geologist. [AL ST SEC 34-41-17]

Current through End of 2003 Organizational, Regular and 1st Special Session.

References

Any person may file written charges against any licensed professional geologist pursuant to rules and

regulations adopted by the board. Charges or allegations shall be in writing and shall be sworn to by the person or persons making them and shall be filed with the secretary-treasurer of the board. The board shall investigate all valid complaints.
(Acts 1995, No. 95-399, p. 820, § 17.)


REFERENCES

ADMINISTRATIVE CODE

8 Ala. Admin. Code 364-X-16-.01, Licensure for Professional Geologists; Disciplinary Action and Procedures: Filing of Complaints and Charges.

LIBRARY REFERENCES

American Digest System:

Licenses  38.

Corpus Juris Secundum:

C.J.S. Agriculture § 4.5; Licenses §§ 48, 50-63.

§ 34-41-18. Illegal acts. [AL ST SEC 34-41-18]

Current through End of 2003 Organizational, Regular and 1st Special Session.

Historical Notes References

(a) It is unlawful for any person except a licensed professional geologist or a subordinate under his or her direction, as defined in Section 34-41-7(b)(6); a geologist explicitly exempt from licensing pursuant to Section 34-41-7; and those persons explicitly exempt under Section 34-41-8(b)(1) to prepare any geologic plans, reports, or documents which relate to the public welfare or safeguarding of life, health, property, or the environment.

(b) It is unlawful for any person to publicly practice, offer or attempt to publicly practice geology, use in connection with his or her name or otherwise assume, or advertise any title or description tending to convey the impression that he or she is a licensed professional geologist, unless that person has been duly licensed.

(c) One year after the initial board calls for applications, it shall be unlawful for anyone other than a professional geologist licensed under this chapter to stamp or seal any plans, plats, reports, or other documents with the seal or stamp of a licensed professional geologist, use in any manner the seal or stamp of a licensed professional geologist, or use in any manner the title "licensed professional geologist" unless that person is licensed hereunder or temporarily approved for geologic work as specified under Section 34-41-14.

(d) It is unlawful for any person to affix his or her signature to or to stamp or seal any plans, plats, reports, or other documents as defined by the rules of the board after the license of the person named thereon has expired or has been suspended or revoked.

(Acts 1995, No. 95-399, p. 820, § 18.)

HISTORICAL NOTES

HISTORY

Code Commissioner's Notes

In 1995, the Code Commissioner translated "Section 7(b)(5) of this act" to "Section 34-41-7(b)(6) in the first clause of subsection (a). Subdivision (6) was inserted for subdivision (5) to correctly reference the apparently intended subdivision.

REFERENCES

ADMINISTRATIVE CODE

8 Ala. Admin. Code 364-X-14-.01 et seq., Licensure for Professional Geologists; Professional Conduct (Code of

Ethics).
8 Ala. Admin. Code 364-X-15-.01 et seq., Licensure for Professional Geologists; Compliance and Enforcement.
8 Ala. Admin. Code 364-X-16-.09, Licensure for Professional Geologists; Disciplinary Action and Procedures:
Discipline.

LIBRARY REFERENCES

American Digest System:

Licenses  39.39.

Corpus Juris Secundum:

C.J.S. Licenses §§ 74, 76.

§ 34-41-19. Denial, suspension, or revocation of license. [AL ST SEC 34-41-19]

Current through End of 2003 Organizational, Regular and 1st Special Session.

References

The board may refuse to grant or renew, or may suspend or revoke the license of any person licensed under this chapter who:

- (1) Has violated this chapter or any rule or regulation of the board.
 - (2) Has been convicted of a misdemeanor under this chapter.
 - (3) Has been found guilty of gross unprofessional conduct, dishonest practice, incompetence, including but not limited to obtaining a license under this chapter through fraud or deceit, and aiding or abetting another person in obtaining a license by fraud or deceit.
 - (4) Has been convicted of a criminal felony charge impinging on the moral and ethical character of the individual and the profession.
 - (5) Has suffered revocation, suspension, or denial of a certificate or license to practice geology for any reason in another state.
- (Acts 1995, No. 95-399, p. 820, § 19.)

REFERENCES

ADMINISTRATIVE CODE

8 Ala. Admin. Code 364-X-14-.01 et seq., Licensure for Professional Geologists; Professional Conduct (Code of Ethics).
8 Ala. Admin. Code 364-X-16-.09, Licensure for Professional Geologists; Disciplinary Action and Procedures:
Discipline.

LIBRARY REFERENCES

American Digest System:

Licenses  22, 38.

Corpus Juris Secundum:

C.J.S. Agriculture § 4.5; Licenses §§ 43, 48, 50-63.

§ 34-41-20. Procedures for disciplinary actions; aggrieved person may petition board for hearing; judicial review. [AL ST SEC 34-41-20]

Current through End of 2003 Organizational, Regular and 1st Special Session.

References

- (a) The board shall develop procedures for investigation, prehearing, and hearing of disciplinary actions.
- (b) Any person aggrieved by a decision of the board other than a decision in a disciplinary action may petition the board for a hearing.
- (c) Judicial review of the final decision of the board is available in the manner prescribed by the Alabama

Administrative Procedure Act.
(Acts 1995, No. 95-399, p. 820, § 20.)

REFERENCES

ADMINISTRATIVE CODE

8 Ala. Admin. Code 364-X-16-.01 et seq., Licensure for Professional Geologists; Disciplinary Action and Procedures.
8 Ala. Admin. Code 364-X-17-.01 et seq., Licensure for Professional Geologists; Administrative Hearings.
8 Ala. Admin. Code 364-X-18-.01 et seq., Licensure for Professional Geologists; Judicial Review.

LIBRARY REFERENCES

American Digest System:

Licenses  22, 38.

Corpus Juris Secundum:

C.J.S. Agriculture § 4.5; Licenses §§ 43, 48, 50-63.

§ 34-41-21. Reissuance of license. [AL ST SEC 34-41-21]

Current through End of 2003 Organizational, Regular and 1st Special Session.

References

The board may issue a license to any person whose license has been revoked, when the board finds upon written application by the applicant and a review of the facts that there is good cause to justify reissuance.
(Acts 1995, No. 95-399, p. 820, § 21.)

REFERENCES

ADMINISTRATIVE CODE

8 Ala. Admin. Code 364-X-10-.01 et seq., Licensure for Professional Geologists; Licensure.

LIBRARY REFERENCES

American Digest System:

Licenses  38.

Corpus Juris Secundum:

C.J.S. Agriculture § 4.5; Licenses §§ 48, 50-63.

§ 34-41-22. Actions which are Class B misdemeanors. [AL ST SEC 34-41-22]

Current through End of 2003 Organizational, Regular and 1st Special Session.

References

Any person who does any of the following is guilty of a Class B misdemeanor:

- (1) Willfully publicly practices, or offers or attempts to publicly practice, geology for other natural or corporate persons in Alabama without being licensed in accordance with this chapter or hereby exempted.
- (2) Presents or attempts to use as his or her own, the certificate of licensure or seal of another.
- (3) Gives false or forged evidence of any kind in obtaining a license.
- (4) Impersonates any other licensee.
- (5) Attempts to use an expired or revoked license or practices at any time during which the board has suspended or revoked the license.
- (6) Violates any provision of this chapter.

(Acts 1995, No. 95-399, p. 820, § 22.)

REFERENCES

ADMINISTRATIVE CODE

8 Ala. Admin. Code 364-X-16-.09, Licensure for Professional Geologists; Disciplinary Action and Procedures: Discipline.

LIBRARY REFERENCES

American Digest System:

Licenses ☒ 40.

Corpus Juris Secundum:

C.J.S. Agriculture § 4.5; Licenses §§ 82-83; Trading Stamps and Coupons § 6.

§ 34-41-23. Injunction. [AL ST SEC 34-41-23]

Current through End of 2003 Organizational, Regular and 1st Special Session.

References

As an additional remedy, the board may proceed in a court of an appropriate jurisdiction to enjoin and restrain any person for violating this chapter. The board shall not be required to post bond in connection with obtaining provisional, preliminary, or permanent injunctive relief pursuant to law.

(Acts 1995, No. 95-399, p. 820, § 23.)

REFERENCES

ADMINISTRATIVE CODE

8 Ala. Admin. Code 364-X-16-.05, Licensure for Professional Geologists; Disciplinary Action and Procedures: Right of Hearing.

LIBRARY REFERENCES

American Digest System:

Injunction ☒ 89(5).

Corpus Juris Secundum:

C.J.S. Injunctions §§ 133-135.

§ 34-41-24. Sunset Law. [AL ST SEC 34-41-24]

Current through End of 2003 Organizational, Regular and 1st Special Session.

The Alabama Board of Licensure for Professional Geologists shall be subject to the provisions of the Alabama Sunset Law of 1981, and shall be classified as an enumerated agency pursuant to Section 41-20-3. The board shall dissolve on October 1, 1997, unless continued as therein provided and, if continued, the board shall be reviewed every four years thereafter.

(Acts 1995, No. 95-399, p. 820, § 25.)

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Alabama Board of Licensure for Professional Geologists



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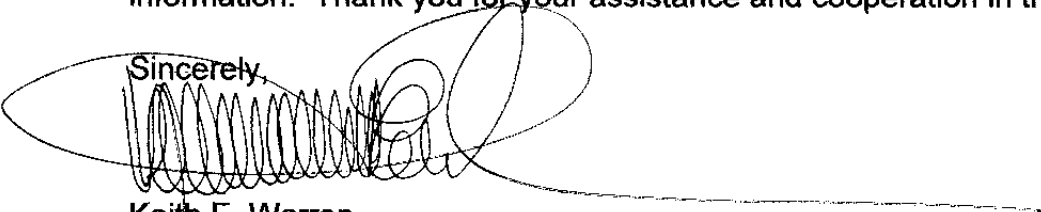
September 3, 2004

John E. Norris
Director, Operational Division
Department of Examiners of Public Accounts
State of Alabama
Post Office Box 302251
Montgomery, AL 36130-2251

Dear Mr. Norris:

Attached are responses to each of the five significant items identified by the Department of Public Accounts as submitted in the Department's letter dated August 18, 2004. The Board of Licensure for Professional Geologists understands that these significant items will appear in the Department's report to the Sunset Committee. We hope that this response provides sufficient information. Thank you for your assistance and cooperation in this matter.

Sincerely,



Keith E. Warren
Executive Secretary

Significant Items Response

- 1. The board did not properly complete administrative rule changes, thereby rendering the rule changes invalid.**

The Board has adopted the rule changes at its August 19, 2004 Board meeting and has filed the change with the Administrative Procedures Division of the Legislative Reference Service. The Board will complete the administrative rule change following the guidelines set forth by the Administrative Procedures Act.
- 2. Weaknesses exist in the board's collection and deposit of fees.**

The Board will always collect late fees regardless of anyone's circumstances or reasons of being late.

The collection of incorrect fees regarding a temporary licensee was an ongoing situation regarding his licensure here in Alabama. This licensee had received the application and had been quoted the old fee and submitted his application during the time period of the fee increase. After the fee increase, all applicants were charged and will continue to be charged the increased fee.

The Board's administrative office has a policy of weekly deposits to be made for receipts received in the office. These deposits are made weekly without any interruption.
- 3. The board's licensee database and licensee files contained incomplete and non-current information.**

Changing from MS Excel database to Microsoft Access was a mistake. We changed back to MS Excel database and began to update licensee's data from their renewal forms. Some typographical errors were made but they have been corrected as they were found. The Board's administrative office was completing the updated database when the unfilled renewals were found. All pending information has been appropriately filed at this time.

4. **Complainants are not notified by the board of the resolution of a complaint if a private reprimand is issued to the offender.**

The Board did issue a private reprimand this year however, the Board, legal counsel and executive secretary were bound by statute not to respond to the complainant regarding the outcome of the disciplinary action since it was a "private reprimand." A private reprimand is only placed in the licensee's file for the Board's future reference and the licensee's notification to discontinue the inappropriate behavior. Otherwise, disciplinary action with the exception of a private reprimand would be reported to the complainant and the licensees of the Board.

5. **Thirty-one percent of the responses to questionnaires received licensees state that continuing education is not necessary for competent practice.**

The Board has discussed this issue and continues to agree with the requirement of continuing education in order for the continued practice of competent geologists. The Board was established to protect the welfare, safety and health of the citizens of the State of Alabama and by continuing to educate geologists in environmental issues helps the Board safeguard the public with competent geologists. The Board has established a Continuing Education Guidelines Booklet to assist licensees in obtaining their CEU's and give examples of courses and activities would be eligible to count towards their biennial CEU requirements. The Board also advertises courses and activities in its newsletter and on its web site to assist licensees in the CEU requirement.

STATUS OF PRIOR FINDINGS

Since the last Sunset Audit, the Board of Licensure for Professional Geologists and the Board of Professional Engineers and Land Surveyors appointed a committee consisting of one Board member from each Board and two members from each profession to develop an agreement to handle complaints of individuals that are cross trained in work performance. The committee was quite successful in the development of an agreement on how to handle these complaints. As of this point, the Boards have not received a complaint to test the strength or successfulness of this agreement. You will find the agreement attached.

TASK FORCE RESOLUTION—GEOLOGY AND ENGINEERING BOARDS

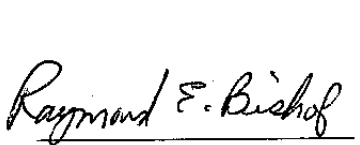
Response by Geology and Engineering Licensure Boards' Joint Task Force to Resolve Conflicts in Disciplining Out-of-Field Practice in General, and Particularly in Submittals to Public Agencies. To Identify the Appropriate Measures of the Boards in Jurisdiction of Licensed Professionals Undertaking to Practice in Licensure Areas (Geology or Engineering) Outside of their Fields of Expertise and their Professional License Limitations.

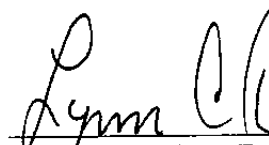
1. In a disciplinary case when an individual or a corporate professional, for unacceptable performance, is cited to a licensure board (other than the one granting his/her license), as a result of reaching beyond the professional's qualifications, the case would be referred to the board issuing the license for hearing and disposition. The referring or complaining licensure board should have at the license-issuing board's hearing, for liaison, for evidence and to observe, one of the members of the complaining board and/or its designated qualified representative having knowledge of the requirements for practice in the questionable area, and knowledge of the specifics in which the professional overstepped his or her qualifications, demonstrating lack of capability or failure to have been properly qualified. As a practical matter, participation of the complaining board in the case of non-compliant practice within the jurisdiction of the complaining board preserves the rights of the accused and facilitates disposition. When the misperformance of a licensed professional is acknowledged and challenged by a public agency, licensure board(s) should seek and expect to use information furnished by the agency to support preparation and disposition of the case.
2. Each licensure board should maintain an adequate descriptive, inclusive statement of the areas for which its professionals could be qualified and accredited. Such inclusive descriptions (not exclusive lists explicitly or by implication) should be specific enough for clients and government agencies representing the public to determine if a professional's work as presented to the public agency is likely to be within his or her normal range of experience, precluding the need to examine the professional's competence unless the required competence is obviously unlikely to be met. (Engineers or geologists practicing within their licensure field but outside of their area of competence are already subject to discipline by their respective boards.) Licensure boards do not certify subspecialties. This task force is not formulating limitations of subspecialty. It is not for licensure boards to guide the supplementary inquiry by a client or public agency as to qualifications required or sought by any client or user of professional services. In keeping with this resolution, previous lists will be replaced by the respective licensure board's specialty areas with the clear effect that these specialties are not skills or areas of practice exclusive to or from any particular board's licensees.


3. The Engineering and Geology Boards should maintain a joint-board liaison committee composed of Board members and licensed technical professionals as are, from time to time, appropriate. This committee should examine complaints, if possible, prior to their being taken up by the designated professional board. The liaison committee should consist of one Geology Board member and one appropriate professional geologist and like representation from the Engineering Board.
4. Public agencies specify, as part of their regulations, the functions or tasks in which professionals must measure their qualifications to make recommendations or to furnish submittals. Public agencies or clients should not be expected to validate and investigate the credentials of professionals practicing before them or on behalf of them. However, it is not correct to presume that every licensed engineer or every licensed geologist is adequate for all assignments in engineering or geology, respectively. The Task Force endorses the use of supplemental information as specified in the joint letter of July 23, 1998, and its attachment, *ADEM Supplemental Information Form*, modified for other agencies as necessary. The public agencies as a matter of courtesy and liaison may facilitate the professional licensure boards' understanding and improve quality of technical submittals by providing: (1) copies of such regulations requiring licensed professionals; and (2) descriptions of technical regulations requiring professional judgment in submittals. These descriptions are usually adequate in the statute or regulation requiring the technical submittal. It is reasonable that a licensee should: (1) cite his/her capability (and limitations) to satisfy an assignment; and (2) certify to his/her subspecialty capability.
5. The individual or corporate professional is responsible for using his/her license number and for providing qualifying experience with his/her proposal or product, particularly in any "gray area," or when requested by a client, zoning board, or other public agency or licensure board. "Gray areas" include areas in which the licensure credentials for professional geology or engineering may overlap. A signature or license number is not sufficient to define a competent professional, but is sufficient to hold him/her accountable for malfeasance. "Experienced enough to be dangerous" is not good enough. The responsibility dwells with the professional, not the public agency or licensure board, to measure the assignment and to establish a statement of qualification, clear and specific for the client or public agency to verify if it chooses. It is customary for technical professionals to provide evidence of specialty, including credentials, examinations, specialized experience or training, curriculum vitae, bibliographies, lists of projects, resumes and memberships in professional societies. Statement of limitations and disclaimer are reasonable and normal and often serve to make a more reasonable response to assignment.

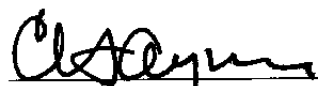
6. Standing liaison committees directed toward the respective public agencies can maintain understanding between the respective licensure boards and public agencies requiring licensed professional categories in their regulations. We recommend that these two licensure boards establish such liaison, and that this liaison committee will include a representative from each board.

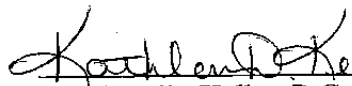
Approved and submitted by the Task Force, 18 April, 2001 (amended 12 December, 2001):

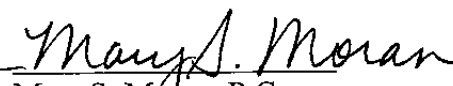

Raymond E. Bishop, P.E.


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18 April, 2001

Revised 12 December, 2001